

Inspections

NAFTA Implementation and CMVs

President Bush recently signed the authorization to comply with the NAFTA agreement and open the U.S. –Mexican border. The requirements for Mexican carriers to operate in the U.S. are very stringent, and there are some things officers need to be aware of.

Compliance with FMCSR

Both Mexican and Canadian carriers must comply with the FMCSR (Parts 390-399; adopted by Michigan at MCLA 480.11a), the U.S. insurance (MCS-90) requirements and the U.S. Drug and Alcohol regulations. State and local officers have the authority to enforce all other Michigan statutes on foreign carriers and drivers, including the state adoption of the FMCSR (Parts 390-399).

Drivers Licenses

For CDL vehicles, drivers from Mexico must have a *Licencia Federal* and drivers from Canada must have a Canadian CDL issued by their province. While the *Licencia Federal* uses letter codes to indicate the type of vehicle the driver can operate, it is not comparable to the U.S. CDL program (see attachment for description). The Canadian CDL differs by province, but generally speaking, all Class 1-4 (in Ontario, A-D) licenses are Canadian CDLs.

Medical Card Reciprocity

Drivers with a valid *Licencia Federal* or Canadian CDL do not have to display a medical certificate, due to reciprocity agreements USDOT has signed with the Canadian and Mexican governments. However, the agreement excludes drivers with the following conditions:

- Epilepsy;
- Insulin-taking Diabetes;
- Hearing-impairment as defined in Section 391.41(b)(11); or
- A medical waiver issued by either country or a province of Canada

Operating Authority

All Mexican carriers – both private and for-hire – must have operating authority from USDOT. Mexican Carriers who have obtained Operating Authority must carry a “Certificate of Authority” from USDOT with the carrier’s name; a MX number (similar to a USDOT number), and a description of the geographic area the carrier can operate in.

In addition, all Mexican carriers operating in the U.S. must display a valid, current CVSA decal (valid for 90 days).

For U.S. and Canadian carriers, only for-hire carriers must obtain Operating Authority from USDOT. Again, these carriers must have a Certificate of Authority in the vehicle. There are a number of exceptions (private carriers, certain commodities, commercial zone designations, etc.) from this requirement.

Officers can check a carrier's status for Operating Authority through one of the following options:

- <http://www.fmcsa-li.volpe.dot.gov>
- 800-832-5660 (8:30 am – 5:00 pm, EST)
- 202-358-7000 (after hours; automated)

Michigan has not adopted Part 365 of the FMCSR, so Michigan law enforcement officers cannot enforce the Operating Authority requirements on any carrier or place a carrier Out-of-Service for no Operating Authority. However, officers should forward all available information on Mexican carriers operating without authority to the USDOT/FMCSA office in Lansing (517-377-1866).

Information to forward includes:

- Copies of bills of lading or shipping papers;
- A copy of the officer's inspection report;
- A copy of the carrier's operating authority, if present; and
- A copy of the FMCSA operating authority report from their website.

Once Michigan has adopted Part 365, officers will be able to place foreign vehicles without Operating Authority Out-of-Service and issue citations for no Authority or no Certificate carried. Carriers placed OOS would have to either obtain a carrier with authority to transport the load, or the vehicle would have to be towed back to the carrier's terminal.

More information on the NAFTA implementation is available at www.fmcsa.dot.gov/safetyprogs/nafta.htm.

Language Services

The MSP Special Operations Division maintains a subscription with "Language Line" for law enforcement use. Language Line provides interpreters so officers can communicate with foreign-language speaking individuals. Contact the Operations Desk (24/7).

Vehicle Code

Dealer, In Transit and Manufacturer Plates

These plates are often an area of concern for officers. HB5363 was recently changed Section 257.244, which establishes the use of special plates.

Subsection (1) states that manufacturer plates may be used “...for the purposes of transporting or testing or in connection with a golf tournament or a public civic event...” There are no recent Attorney General Opinions on the use of manufacturer plates.

Subsection (2) now allows manufacturer plates to be used by a “producer of a vehicle subcomponent system” to solely transport or test the subcomponent (e.g., brakes, exhaust, fuel system). The subcomponent producer must be a recognized producer or under contract with a vehicle manufacturer.

Subsection (4), in reference to In Transit/Repair plates, allows transporters to move any vehicle “...(s)olely to deliver the vehicle...” Section 257.226a expands the use of these plates to transport a vehicle for repair or service, legally repossess a vehicle, and by dealers of non-titled boat trailers when delivering a vessel or trailer to a customer or boat show.

Subsection (5) restricts all three plates – Dealer, In Transit, and Manufacturer plates – from being displayed on vehicles being used as service cars or wreckers that are an adjunct of the licensee’s business. This means that these plates cannot be used to pick up or deliver parts for the dealership, loaner or courtesy vehicles, roadside assistance vehicles, or other similar business-related activities.

Dealer plates have a much broader use than the other special plates:

- Employees, agents or even family members of the dealer may use vehicles with dealer plates provided the vehicle is not a service car as described above. The vehicle must be owned by the dealership; it cannot be used on personally owned vehicles. There is no time limit on this use.
- Dealer-owned vehicles may be transported with dealer plates to and from repair facilities, storage lots, sale lots, etc. There is no time limit on this use.
- Prospective customers may operate a dealer-owned vehicle with a dealer plate for up to 72 hours for demonstration purposes (257.244(9)). The Secretary of State advises dealerships to provide customers with dated authorization forms to carry in the vehicle, but there is no statute requiring it.

- Customers who have purchased a vehicle from the dealership may use the dealer plate for up to 72 hours. The statute requires the customer to have in his/her possession proof to indicate the date of sale (257.244(8)).
- On January 2, 1990, Attorney General Opinion No. 6634 clarified the use of dealer plates on trucks or wreckers. The Secretary of State asked if it was legal to use a dealer plate on a truck or wrecker that was transporting vehicles to auctions or other dealerships. The Attorney General reasoned that since these vehicles could legally be driven with a dealer plate to sale, that the use of a truck or wrecker couldn't be described as an "adjunct" of the business. Therefore, a dealership can use trucks or wreckers "in its inventory" with dealer plates to transport vehicles to a place of sale. Secretary of State has extended this Opinion by allowing the use of dealer plates on trailers carrying vehicles for sale or truck-tractors towing semitrailers carrying vehicles for sale.
- Except as discussed above, the use of a vehicle with dealer plates to transport freight is an illegal use of the dealer plate, unless the load is present for demonstration purposes. However, even for demonstration purposes, the load cannot be delivered to its destination (SOS position).

All vehicles displaying specialty plates must carry sufficient insurance, and all specialty plates expire on the last day of February of each calendar year. In addition, the owner of these specialty plates must keep a written record of the vehicles that each plate was used for and the time that the plate was displayed on the vehicle. These records must be opened for inspection to a peace officer (257.247).

When an officer suspects a plate is being used improperly, he/she should ask how the vehicle is being used for that trip. Does the vehicle display the company's name and/or logo? Is the display permanent (e.g., painted)? Is there an MPSC decal on the vehicle (indicating an haul for hire)? Was the vehicle previously registered under the company's name and now has a dealer plate (do a LEIN check of the VIN for a registered owner)?

Reminders

- **NEW LAW:** HB 5734 added language to subsection 207.211(j) so that effective April 1, 2003, trucks, road tractors, and truck tractors operated exclusively in intrastate transportation do not need to obtain fuel tax permits.

- 2003 MPSC Decals will be issued in pairs, one for each side of the vehicle.
- The Michigan office of the USDOT/FMCSA is asking to be notified of significant CMV crashes or significant hazardous material incidents. A significant crash is one that involves multiple fatalities, numerous injuries, high property damage, unusual interest crashes, or a combination of any of those factors. A significant hazardous material incident is one that involves any fatalities; injuries requiring hospitalization; damages in excess of \$50,000; the shut down of an interstate highway for an hour or more; an evacuation of the general public for more than an hour; or any incident involving the release of a radiological material or infectious substance. The USDOT/FMCSA office can be notified by calling 517-337-1866.
- The FMCSR requirement for hazardous materials drivers to conduct a tire check every two hours (Section 397.17) has been removed, in response to creating a possible terrorist opportunity by the requirement. Hazardous materials drivers must now check their tires prior to the trip and each time the vehicle is parked.
- Because of the reciprocity agreements Michigan has signed with other states, the Michigan law that requires truck plates to be placed on the back of the truck cannot be enforced on vehicles plated in other states. For example, Illinois requires all IRP plates to be displayed on the front of the vehicle, except buses and trailers. The display statute only applies to vehicles plated in Michigan.